SUMMARY OF CONFERENCE AGREEMENT ON REVENUE INCREASE PROVISIONS OF H.R. 3545

Prepared by the Staff

of the

JOINT COMMITTEE ON TAXATION

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CONFERENCE AGREEMENT ON REVENUE ITEMS

Package 1 -- Similar Items

Customs User Fee

House Offer - 12/15/87

House recedes to lower Senate fee level; merge House and Senate language on other provisions as follows:

(a) accept Senate provision on expiration date, treatment of fees as offsetting expenditures, and clarification regarding deposit of fees;

(b) accept House provisions relating to foreign trade zones, items 806.30 and 807.00, provision of adequate services, overtime clarification, refund of certain user fees and GAO study of CES program (including suspension of current CES operations at airports and notification requirements).

Senate Offer - 12/15/87 -

Accept House offer with modification to apply suspension of current CES operations only at JFK airport.

House Response - 12/16/87 - 4:00 PM -

House accepts Senate offer.

Senate Response - 12/17/87 -

Senate accepts original House offer.

Conference Agreement

Accept Senate response.

II. Business Tax Provisions

A. Accounting Provisions

1. Repeal of vacation pay reserve

House Offer - 12/15/87 -

House recedes with the adjustment required by the change in method of accounting generally taken into account as follows: (1) 10% for 1988; (2) 20% for 1989; (3) 30% for 1990; and (4) 40% for 1991.

Senate Offer - 12/15/87 -

Accept House offer with (a) technical modifications relating to fiscal year taxpayers and (b) adjustment periods and percentages left open.

House Response - 12/16/87 - 4:00 PM -

House accepts Senate offer, leaving adjustment periods and percentages open.

Conference Agreement

The adjustment periods and percentages will be adjusted as necessary to meet revenue targets.

8. Accrual accounting for certain farm corporations.

House Offer - 12/15/87 -

House recedes with amendment clarifying that there is recapture of any amounts in suspense account when a family business has been sold outside the family group.

Senate Offer - 12/15/87 -

Accept House offer.

House Response - 12/16/87 - 4:00 PM -

AGREED.

B. Partnership Provisions

2. Treatment of publicly traded partnerships under the passive loss rule

House Offer - 12/15/87 -

House recedes with respect to (a) the $25,000 (deduction equivalent) allowance for rehabilitation and low income housing credits from certain rental real estate activities, with technical modifications to prevent multiple allowances, and (b) the expectation test for defining a publicly traded partnership.

Senate Offer - 12/15/87 -

Accept House offer.

House Response - 12/16/87 - 4:00 PM -

AGREED.

C. Corporate Provisions

1. Computation of earnings and stock profits for purposes of intercorporate dividends and stock basis adjustments (overruling of Woods Investment Co. case)

House Offer - 12/15/87 -

Option 1. Senate recedes.

Option 2. (a) and (b) House recedes with modification. Transition relief is provided for dispositions pursuant to a written contract binding on or before December 15, 1987; or pursuant to a governmental order, a letter of intent or preliminary agreement, a stock acquisition agreement, or the incurrence of a $1 million non-refundable finder's fee on or before that date; provided in each case the disposition is completed before January 1, 1989.

Senate Offer - 12/15/87 -

House recedes on binding contract transition rule; binding contract date left open.

House Response - 12/16/87 - 4:00 PM -

House insists on Option 2 of prior House offer.

Senate Response - 12/17/87 -

Senate insists on prior offer.

Conference Agreement

Senate accepts House response.

E. Pensions: Modify Full-Funding Limitation

House Offer - 12/15/87 -

Senate recedes.

Senate Offer - 12/15/87 -

Senate recedes with substitution of study for regulatory authority.

House Response - 12/16/87 - 4:00 PM -

House accepts Senate offer, with modification providing phase-in under which the percentage would be 300%, 262.5%, 225%, and 187.5%, respectively, during the first four years the provision is effective.

Senate Response - 12/17/87 -

Senate recedes to original House offer with the following modifications: (1) require publication of regulations by August 15, 1988; (2) provide Secretary of the Treasury with flexibility to utilize variables other than termination liability in formulating regulations; and (3) require Treasury Department to submit a study of the impact of the provision to the House Ways and Means Committee and Senate Finance Committee by August 15, 1988.

Conference Agreement

House accepts Senate response.

IV. Estate and Gift Taxes

1. Extension of 1987 tax rates

House Offer - 12/15/87 -

House recedes, with modification that 1987 rates apply for 5 years.

Senate Offer - 12/15/87 -

Accept House offer.

House Response - 12/16/87 - 4:00 PM -

AGREED.

5. Estate tax deduction for sales to an ESOP

House Offer - 12/15/87 -

Senate recedes.

Senate Offer - 12/15/87 -

Accept House offer.

House Response - 12/16/87 - 4:00 PM -

AGREED.

V. Excise Taxes

2. Collection of excise tax on nongasoline fuels

House Offer - 12/15/87 -

House recedes with four modifications: (1) Discretionary authority for Treasury to exempt sales of (a) diesel fuel for use in trains; (b) aviation fuel for use in commercial aviation; and (c) both fuels for industrial use other than as a motor fuel; (2) Special motor fuels tax imposed at retail level; (3) Technical drafting modifications to clarify imposition of tax where taxable use occurs before sale; (4) Effective date of April 1, 1988.

Senate Offer - 12/15/87 -

Accept House offer, with addition of discretionary exemption for sales to State and local governments.

House Response - 12/16/87 - 4:00 PM -

Accept Senate offer.

Senate Response - 12/17/87 -

AGREED.

VI. Employment Taxes

1. Railroad retirement tax provisions

a. Railroad retirement tax

House Offer - 12/15/87 -

Same provision.

Senate Offer - 12/15/87 -

Same provision.

House Response - 12/16/87 - 4:00 PM -

Same provision.

Senate Response - 12/17/87 -

Same provision.

b. Commission on railroad retirement reform

Membership

House Offer - 12/15/87 -

Open (Joint with Energy and Commerce conference).

Senate Offer - 12/15/87 -

Open.

House Response - 12/16/87 - 4:00 PM -

Senate recedes with an amendment. The Commission would be composed of 4 members appointed by the President one of whom would represent commuter railroads; one member appointed by the House; one by the Senate; and one by the Comptroller General with expertise in pensions.

Senate Response - 12/17/87 -

Senate accepts House offer.

Scope of study

House Offer - 12/15/87 -

Open (Joint with Energy and Commerce conference).

Senate Offer - 12/15/87

House Response - 12/16/87 - 4:00 p.m. -

Senate would recede with an amendment including in the study the short-term and long-term solvency of the system including the ability of the system to pay benefits and the financial relationship of the system to other public insurance funds.

Senate Response - 12/17/87 -

Senate accepts House offer.

c. Extension of transfer to the Railroad Retirement Account of taxes on Tier II benefits

House Offer - 12/15/87 -

Senate recedes.

Senate Offer - 12/15/87 -

House recedes.

House Response - 12/16/87 - 4:00 PM -

House insists on offer of 12/15/87.

Senate Response - 12/17/87 -

Senate insists on prior offer.

Conference Agreement

House recedes with an amendment to extend the transfer for 1 year only, until October 1, 1989.

2. FUTA tax extension

House Offer - 12/15/87 -

House recedes on ceiling; Senate recedes on interest charges.

Senate Offer - 12/15/87 -

Accept House offer.

House Response - 12/16/87 - 4:00 PM -

AGREED.

Package 2 -- Corporate

C. Corporate Provisions

2. Limitation on consolidated return pass-through

House Offer - 12/15/87 -

Senate recedes with modifications. A 1 year delay (until taxable years beginning after December 31, 1988) is generally provided for the provision denying consolidation to the portion of the subsidiary's income or loss attributable to stock owned by nonmembers. However, this delay does not apply in the case of nonvoting preferred stock owned by nonmembers. The effective date for such stock is open.

Senate Offer - 12/15/87 -

House recedes.

House Response - 12/16/87 - 4:00 PM -

House insists on offer of 12/15/87 with a five-year delayed effective date for non-voting preferred stock of savings and loan institutions.

Senate Response - 12/17/87 -

Senate insists on prior offer.

Conference Agreement

House recedes.

3. Tax benefited transfers through intercorporate dividends received deduction; preferred stock loss transfers

(a) Reduction of dividends received deduction

House Offer - 12/15/87 -

Senate recedes.

Senate Offer - 12/15/87 -

House recedes.

House Response - 12/16/87 - 4:00 PM -

House insists on offer of 12/15/87

Senate Response - 12/17/87 -

Accept House offer with modification: the reduction applies only where the recipient does not own 20 percent or more of the voting power and value of the stock (as defined in Code section 1504) of the corporation.

Conference Agreement

Accept Senate response with modification: reduce the dividends received deduction to 70 percent, but only where the recipient does not own 20 percent or more of the voting power and value of the stock (as defined in Code section 1504) of the corporation.

(b) Certain types of stock

House Offer - 12/15/87 -

Senate recedes; effective date open.

Senate Offer - 12/15/87 - House recedes.

House Response - 12/16/87 - 4:00 PM -

House accepts Senate offer.

Senate Response - 12/17/87 -

AGREED.

4. Deduction of interest for corporate acquisition indebtedness

House Offer - 12/15/87 -

Senate recedes with modification so that a deduction is disallowed only for 25 percent of the interest in excess of $5 million. Effective date open.

Senate Offer - 12/15/87 -

House recedes.

House Response - 12/16/87 - 4:00 PM -

House accepts Senate offer.

Senate Response - 12/17/87 -

AGREED.

5. "Mirror" subsidiary transactions

(a) Subsidiary liquidations

House Offer - 12/15/87 -

(i) Gain recognition (in accordance with the otherwise generally applicable consolidated return regulations) applies in the case of distributions to corporations that would be treated as 80-percent owners under section 332 solely by reason of Treas. Reg. Sec. 1. 1502-34. House bill effective date.

Senate Offer - 12/15/87 -

(i) In the case of liquidations within 5 years of a taxable acquisition of 80-percent of the stock of a corporation, gain recognition applies in the case of distributions to any corporation that would be treated as an 80-percent owner under section 332 solely by reason of Treas. Reg. Sec. 1.1502-34. Regulatory authority is provided to prevent avoidance of the rule through the use of tiering arrangements. Regulations to be effective as of the effective date of this provision.

House Response - 12/16/87 - 4:00 PM -

(i) House insists on offer.

Conference Agreement

(i) Senate recedes to House offer, except (d) below for effective date.

House Offer - 12/15/87 -

(ii) Gain will be recognized with respect to distributions to an 80-percent distributee. However, the gain to be recognized on such a subsidiary liquidation is generally limited to the excess, at the time of liquidation, of the corporate shareholder's basis in its stock of the liquidating corporation over the basis of the assets received in the distribution. Also, a mechanism is provided for deferral of such gain recognition until disposition occurs. Gain recognition generally would not be required in the case of a liquidating foreign corporation. Effective date open.

Senate Offer - 12/15/87 -

(ii) House recedes.

House Response - 12/16/87 - 4:00 PM -

(ii) House insists on offer.

Conference Agreement

(ii) House recedes.

House Offer - 12/15/87 -

(iii) As in the House bill, a liquidating distribution to an 80-percent corporate distributee would be treated as a dividend to the recipient, to the extent of the distributing corporation's earnings and profits. Termination of a U.S. branch of a foreign corporation would be treated as a liquidating distribution for this purpose. Attribution and aggregation rules would apply to prevent avoidance of the rule. In the consolidated return context, a distribution of pre-affiliation earnings and profits would be treated in the same manner as if the corporations did not file consolidated returns. Effective date open.

Senate Offer - 12/15/87 -

(iii) House recedes.

House Response - 12/16/87 - 4:00 PM -

(iii) House insists on offer.

Conference Agreement

(iii) House recedes.

(b) Certain distributions of stock in a subsidiary

House Offer - 12/15/87 -

Senate recedes with modifications. Senate recedes to House bill 5-year holding period requirement. For other transactions, the gain to be recognized is generally limited to the difference, immediately after the distribution, between the basis of the stock of the distributed or distributing corporation and the basis of the assets held by such corporation. For such cases, a mechanism is provided for deferral of gain recognition until disposition occurs and for recognition of gain only with respect to the stock of the distributing or distributed corporation that leaves the group. Gain recognition would generally not be required in the case foreign distributions. Additional modifications are provided outside the affiliated group context to prevent the use of the divisive distribution rules to permit the disposition of subsidiary stock without corporate level tax.

Senate Offer - 12/15/87 -

Senate recedes to House bill 5-year holding requirement with the clarification that the holding requirement is imposed only at the distributee level. House recedes on the remaining provisions.

House Response - 12/16/87 - 4:00 PM -

House insists on offer.

Conference Agreement

House accepts Senate offer.

(c) Sales of stock within a controlled group of corporations

House Offer - 12/15/87 -

Senate recedes with modifications. The provision does not apply to foreign corporations. For domestic corporations, the sale of stock is not treated as a distribution of the stock to the common parent and recontribution to the buyer, and the payment is not treated as a distribution to the common parent and contribution to the seller. Instead, modifications to present law section 304 are made to require basis adjustments as appropriate so that the stock basis of the buying corporation is reduced to reflect the deemed dividend paid and the stock basis of the selling corporation is reduced to reflect the withdrawal of the stock sold. Effective date open.

Senate Offer - 12/15/87 -

House recedes with the modification that regulatory authority is provided to the Treasury to prevent the circumvention of the purposes of the provision described in (i) above using section 304. No inference is intended regarding the scope of Treasury's existing regulatory authority under section 304 and the consolidated return regulations.

House Response - 12/16/87 - 4:00 PM -

House insists on offer.

Conference Agreement

Senate accepts House offer.

(d) Effective date

House Offer - 12/15/87 -

Open, except see (a)(1), above.

Senate Offer - 12/15/87 -

All of the above provisions shall be effective for distributions after December 15, 1987 unless 80 percent of the stock of the corporation was acquired prior to that date or was acquired after that date pursuant to a binding contract or tender offer in effect on that date and the acquisition is completed by the end of 1988; or unless the distribution was subject to transition relief from the 1986 Act General Utilities repeal.

House Response - 12/16/87 - 4:00 PM -

House insists on offer of 12/15/87 for all of item 5.

Conference Agreement

House accepts Senate offer.

6. Special rules for hostile corporate acquisitions

(a) Greenmail

House Offer - 12/15/87 -

Senate recedes. Effective date open.

Senate Offer - 12/15/87 -

Senate recedes with the modification that the tax does not apply to redemptions made on the same terms to all shareholders. Senate recedes to effective date in House bill.

House Response - 12/16/87 - 4:00 PM -

House accepts Senate offer with modification to effective date for binding agreement to redeem stock entered into prior to December 16, 1987.

Senate Response - 12/17/87 -

AGREED.

(b) Mandatory 338 election for hostile tender offers

House Offer - 12/15/87 -

Senate recedes with a modification providing that the 338 election is not mandatory; however, unless such an election is made the interest disallowance of provision (c) will occur. Effective date open.

Senate Offer - 12/15/87 -

House recedes.

House Response - 12/16/87 - 4:00 PM -

House accepts Senate offer.

Senate Response - 12/17/87 -

AGREED.

(c) Interest on debt incurred in connection with a hostile tender offer

House Offer - 12/15/87 -

Senate recedes with a modification providing that the interest disallowance does not occur if the stock purchase is treated as an asset purchase under section 338. Effective date open.

Senate Offer - 12/15/87 -

House recedes.

House Response - 12/16/87 - 4:00 PM -

House accepts Senate offer.

Senate Response - 12/17/87 -

AGREED.

7. Limitation on NOL carryforwards of corporation following worthless stock deduction by shareholders

House Offer - 12/15/87 -

Senate recedes. Effective date open.

Senate Offer - 12/15/87 -

Senate recedes with modification that the provision be applicable only where a worthless stock deduction is affirmatively claimed by a more-than-50-percent shareholder.

House Response - 12/16/87 - 4:00 PM -

House accepts Senate offer, effective as in House bill.

Senate Response - 12/17/87 -

AGREED.

8. Tax loss mergers and acquisitions

(a) Built-in depreciation

House Offer - 12/15/87 -

Senate recedes. Effective date open.

Senate Offer

Senate recedes. Provision to be effective for ownership changes after December 15, 1987.

House Response - 12/16/87 - 4:00 PM -

House accepts Senate offer.

Senate Response - 12/17/87 -

AGREED.

(b) Bankrupt corporations

House Offer - 12/15/87 -

Senate recedes. Effective date open.

Senate Offer - 12/15/87 -

House recedes.

House Response - 12/16/87 - 4:00 PM -

House accepts Senate offer.

Senate Response - 12/17/87 -

AGREED.

(c) Built-in gains

House Offer - 12/15/87 -

Senate recedes with technical modifications. Effective date open.

Senate Offer - 12/15/87 -

Senate recedes with technical modifications including the modification that an exception be provided for the consolidation or merger of corporations previously under common control for a 5-year period. Provision to be effective for transactions after December 15, 1987 unless subject to a written contract or agreement of merger binding on that date.

House Response - 12/16/87 - 4:00 PM -

House accepts Senate offer with modification of effective date for letters of intent signed prior to December 16, 1987.

Senate Response - 12/17/87 -

AGREED

9. LIFO recapture on conversion from C corporation to S corporation

House Offer - 12/15/87 -

Senate recedes with a modification providing a 4-year spread for amounts includible.

Senate Offer - 12/15/87 -

House recedes.

House Response - 12/16/87 - 4:00 PM -

House insists on offer of 12/15/87 with modification of effective date to December 16, 1987.

Senate Response - 12/17/87 -

Senate insists on prior offer.

Conference Agreement

Senate agrees to House response of 12/16/87 4:00 PM, with modification of effective date where either of the following events have occurred prior to December 17, 1987: (1) a Board of Director's resolution to elect S status or (2) the filing of a ruling request indicating an intent to elect S status.

Package 3

II. Business Tax Provisions

A. Accounting Provisions

2. Repeal of completed contract method

House Offer - 12/15/87 -

Senate recedes.

Senate Offer - 12/15/87 -

House insists on offer of 12/15/87.

House Response - 12/16/87 - 4:00 PM -

House insists on offer of 12/15/87.

Senate Response - 12/17/87 -

Senate insists on prior offer.

Conference Agreement

Senate accepts House offer with modification that 70 percent of income from long-term contracts is to be reported according to the percentage of completion method.

D. Corporate Minimum Tax

House Offer - 12/15/87 -

Senate recedes, with modifications to provide that corporate alternative minimum taxable income is equal to adjusted current earnings, effective for taxable years beginning after December 31, 1987.

Senate Offer - 12/15/87 -

House recedes.

House Response - 12/16/87 - 4:00 PM -

House insists on offer of 12/15/87, with modification that rate of alternative minimum tax is lowered to be revenue neutral relative to present law.

Senate Response - 12/17/87 -

Senate insists on prior offer.

Conference Agreement

House recedes.

Package 4 -- Real Estate

I. Individual Tax Provision

A. Income Tax Provisions

1. Limitations on deduction for qualified residence interest ($1 million cap on mortgages for purchase and $100,000 cap on home equity loans)

House Offer - 12/15/87 -

Senate recedes.

Senate Offer - 12/15/87 -

House recedes on (a) $1 million cap and (b) boat and motor home provision; Senate recedes on home equity loan provision.

House Response - 12/16/87 - 4:00 PM -

House insists on offer of 12/15/87, with a modification. Interest on up to $100,000 of acquisition debt on boats and motor homes used as second residences would be allowed, within the overall $1 million limit. Home equity loan provision agreed to.

Senate Response - 12/17/87 -

Senate insists on prior offer.

Conference Agreement

Senate recedes to House response, but with no special limitation applicable to boats and motor homes.

C. Limitation on nonrecognition for like-kind exchanges of real property

House Offer - 12/15/87 -

House recedes with modifications to (a) retain present law for exchanges with governmental entities, (b) drop the $100,000 limitation in the House bill, (c) retain present law treatment of like-kind exchanges for real property held more than 5 years; (d) repeal like-kind exchange treatment for property held less than 1 year, and (e) provide like-kind exchange treatment for a ratable portion of the gain in the case of real property held between 1 and 5 years, determined on the basis of the percentage of the period between 1 and 5 years that the taxpayer has held the property.

Senate Offer - 12/15/87 -

House recedes.

House Response - 12/16/87 - 4:00 PM -

House accepts Senate offer.

Senate Response - 12/17/87 -

AGREED.

Package 5 -- Estate and Gift

IV. Estate and Gift Taxes

2. Graduated rates and unified credit

House Offer - 12/15/87 -

Senate recedes, with a modification that the phaseout begins with estates in excess of $10 million.

Senate Offer - 12/15/87 -

Accept House offer.

House Response - 12/16/87 - 4:00 PM -

AGREED.

3. State death tax credit

House Offer - 12/15/87 -

House recedes.

Senate Offer - 12/15/87 -

Accept House offer.

House Response - 12/16/87 - 4:00 PM -

AGREED.

4. Special valuation rules

Minority discount

House Offer - 12/15/87 -

Senate recedes, with modifications generally providing that (1) the value of a fractional interest in property is deemed to be its pro rata share of the fair market value of the portion of the asset owned by the donor and (2) the portion owned by the donor includes interests held by his spouse and his prior gifts of fractional interests in the asset.

Senate Offer - 12/15/87 -

House recedes.

House Response - 12/16/87 - 4:00 PM -

House accepts Senate offer.

Senate Response - 12/17/87 -

AGREED.

Estate freezes

House Offer - 12/15/87

Senate recedes, with certain technical amendments, including one to conform treatment more closely to that of retained life estate.

Senate Offer - 12/15/87 -

Senate recedes, with certain technical amendments, including grandfather of estate tax freezes completed as of October 13, 1987; reduction in the estate by the value of consideration received by the decedent; and clarification that the provision only applies to the portion of the interest which is disproportionately divided.

House Response - 12/16/87 - 4:00 PM -

House accepts Senate offer, with modification changing grandfather date to December 16, 1987.

Senate Response - 12/17/87 -

The Senate accepts the House offer with an amendment that also would grandfather any estate freeze completed pursuant to a plan, which existed on December 15, 1987, to reorganize the corporation and transfer of stock acquired in that reorganization, if the plan of reorganization of that corporation had been approved by its board of directors on or before December 15, 1987.

Conference Agreement

House accepts original Senate offer with modification changing grandfather date to December 17, 1987.

Package 6 -- Miscellaneous

I. Individual Provisions

B. Employee Benefits

1. Limitation on taxable benefit option under cafeteria plans

House Offer - 12/16/87 - Senate recedes with an amendment to (1) raise the cap on the cash option to $750 and (2) make the cap on the cash option inapplicable to an election by an employee to receive dependent care assistance.

Senate Offer - 12/16/87 - House recedes.

House Response - 12/16/87 - 10:00 P.M. -- House insists on prior offer.

Conference Agreement

House recedes.

II. Business Tax Provisions

A. Accounting Provisions

3. Treatment of past service pension costs under uniform capitalization rules

House Offer - 12/16/87 - House recedes with an amendment applying provision to long term contracts.

Senate Offer - 12/16/87 - Accept House offer.

House Response - 12/16/87 - 10:00 PM - AGREED.

4. Interest on debt used to purchase or carry tax-exempt installment obligations

House Offer - 12/16/87 - Senate recedes with an amendment that provides an exception to the $1 million de minimis rule for tax-exempt obligations with a fixed maturity date not exceeding 1 year from the date of issue.

Senate Offer - 12/16/87 - House recedes.

House Response - 12/16/87 - 10:00 PM - House insists on prior offer.

Conference Agreement -- House recedes.

5. Installment sales rules for dealers

House Offer - 12/16/87 - House recedes with 3 modifications. First, in the case of dealer installment sales, the minimum percentage recognized under the proportionate disallowance rule is 75%. Second, in the case of nondealer installment sales, (1) the proportionate disallowance rule does not apply if the amount of deferred payments outstanding from any one sale is less than $2.8 million and from all sales occurring during the year is less than $5 million; (2) the net proceeds from the pledge of an installment obligation are treated as payment on the obligation; and (3) the installment method may be used in determining alternative minimum taxable income. The rules for nondealer installment sales generally apply to sales occurring after October 13, 1987, with an election available to apply the rules to sales that occur between August 16, 1986, and October 13, 1987. The present law alternative minimum tax treatment of installment sales occurring in the 1986 taxable year is continued. Third, clarification is provided that the exception in the Senate amendment for certain sales of property by a manufacturer to a dealer applies generally to all taxpayers that qualify under the terms of the exception.

Senate Offer - 12/16/87 - House recedes.

House Response - 12/16/87 - 10:00 PM - House insists on prior offer.

Conference Agreement

Senate recedes to House offer with the following modifications. First, in the case of dealer installment sales, the percentage is increased from 75% to 100%. Second, in the case of nondealer installment sales, the $2.8 million limitation is removed. To the extent that the face amount of nondealer installment obligations exceeds $5 million, in lieu of the proportionate disallowance rule, interest is payable annually on the amount of deferred tax that is attributable to the use of the installment method and is determined by using the underpayment rate. Current law continues to apply to timeshares and residential lots.

6. Continuing-care facilities

House Offer - 12/16/87 - Senate recedes.

Senate Offer - 12/16/87 - House recedes.

House Response - 12/16/87 - 10:00 PM - House insists on prior offer.

Conference Agreement - House recedes.

7. Current accrual of market discount on bonds

House Offer - 12/16/87 - Senate recedes with an amendment that the provision applies only to accrual basis taxpayers.

Senate Offer - 12/16/87 - House recedes.

House Response - 12/16/87 - 10:00 PM - House insists on prior offer.

Conference Agreement - House recedes.

9. Amortization of customer base intangibles

House Offer - 12/16/87 - (a) Senate recedes with respect to radio and television broadcasting licenses. House recedes with respect to other property with modification requiring 1-year Treasury study.

Senate Offer - 12/16/87 - House recedes.

House Response - 12/16/87 - 10:00 PM - House insists on prior offer.

Conference Agreement

House recedes.

House Offer - 12/16/87 - (b) Senate recedes with modification providing that transferee may establish useful life of franchise, trademark or trade name but section 1253(d)(2) is repealed.

Senate Offer - 12/16/87 - House recedes.

House Response - 12/16/87 - 10:00 PM - House insists on prior offer.

Conference Agreement

House recedes.

B. Partnership Provisions

1. Certain publicly traded partnerships treated as corporations

House Offer - 12/16/87 - Senate recedes, with a modification to drop the expectation test for defining a publicly traded partnership.

Senate Offer - 12/16/87 - House recedes.

House Response - 12/16/87 - 10:00 PM - House insists on prior offer.

Conference Agreement - Senate accepts House offer with modifications. The provision applies to existing partnerships for taxable years beginning after December 31, 1997. Existing partnerships that substantially expand in the same line of business are not disqualified from grandfather treatment. Any partnership that filed a statement with a Federal or state regulatory commission on or before December 17, 1987, indicating that it would be a publicly traded partnership is grandfathered.

3. Treatment of publicly traded partnerships for unrelated business income tax

House Offer - 12/16/87 - Senate recedes.

Senate Offer - 12/16/87 - House recedes.

House Response - 12/16/87 - 10:00 PM - House insists on prior offer.

Conference Agreement - Senate recedes, with modification changing the effective date so that the provision applies to partnership interests acquired after December 17, 1987.

4. Treatment of certain partnership allocations

House Offer - 12/16/87 - Senate recedes.

Senate Offer - 12/16/87 - Senate recedes with an amendment (1) to allow disproportionate allocation of losses subject to a rule which suspends losses allocable to any taxable partners in excess of the cumulative losses that would have been allowable to the taxable partner under a "straight-up allocation"; (2) to allow disproportionate allocations of income as a preferred return not to exceed 110 percent of the applicable Federal rate; and (3) to provide rules to prevent avoidance of these limitations in the case of transfers of partnership interests.

House Response - 12/16/87 - 10:00 PM - House insists on prior offer.

Conference Agreement

Under the compromise, qualified allocations would include disproportionate allocations subject to the following rules:

A taxable partner cannot be allocated deductions or net taxable losses in excess of its lowest share of income or gain.

A tax-exempt partner cannot be allocated net taxable income or gain in excess of its lowest share of losses or deductions.

Preferred returns of income would be permitted to the extent provided in Treasury regulations.

5. Collection of tax from partnerships

House Offer - 12/16/87 - House recedes.

Senate Offer - 12/16/87 - Accept House offer.

House Response - 12/16/87 - 10:00 PM - AGREED.

6. Study of tax treatment of publicly traded partnerships

House Offer - 12/16/87 - House recedes with a modification to require the study also to cover the issues covered in the House bill study.

Senate Offer - 12/16/87 - Accept House offer.

House Response - 12/16/87 - 10:00 PM - AGREED.

F. Foreign Tax Provisions

1. Treatment of South African income

House Offer - 12/16/87 - Senate recedes.

Senate Offer - 12/16/87 - House recedes.

House Response - 12/16/87 - 10:00 PM - House insists on prior offer.

Conference Agreement

Senate recedes.

2. Imported property income

House Offer - 12/16/87 - Senate recedes, with amendment exempting (1) agricultural products not produced in the U.S. in commercially marketable quantities and (2) income attributable to U.S. possessions.

Senate Offer - 12/16/87 - House recedes.

House Response - 12/16/87 - 10:00 PM - House insists on prior offer.

Conference Agreement

House recedes.

G. Insurance Provisions

1. Interest rate on tax reserves of life insurance companies

House Offer - 12/16/87 - Senate recedes.

Senate Offer - 12/16/87 - Senate recedes, with modification permitting companies to elect (once every 5 years) to use an updated AFR.

House Response - 12/16/87 - 10:00 PM - Accept Senate offer with modification that the election to use an updated AFR every 5 years is a one-time election.

Conference Agreement

Senate accepts House response with a modification that if the AFR changes by less than 0.5 percentage point, no adjustment is allowed.

2. Treatment of investment income of foreign insurance companies

Determination of income effectively connected

House Offer - 12/16/87 - Senate recedes.

Senate Offer - 12/16/87 - Accept House offer.

House Response - 12/16/87 - 10:00 PM - AGREED.

Amount of investment income

House Offer - 12/16/87 - Senate recedes with technical modifications to (1) provide a definition of investment income of domestic and foreign insurance companies; (2) provide that required U.S. assets is determined based on mean insurance liabilities and mean assets; (3) provide regulatory authority for the treatment of segregated asset accounts; and (4) provide regulatory authority to address problems arising from the use of prior year data to compute the minimum statutorily-required investment income.

Senate Offer - 12/16/87 - Accept House offer with additional modification to (1) clarify that the total amount of dividends received, unreduced by the dividends received deduction, and tax exempt income are included in investment income, and (2) provide regulatory authority to address the treatment of investment in U.S. subsidiaries, except the extension of the imputation rules to property and casualty companies is open.

House Response - 12/16/87 - 10:00 PM - AGREED, including leaving open the extension of the imputation rules to property and casualty companies.

Conference Agreement

Accept Senate offer, applying the imputation rules to property and casualty companies.

3. Treatment of mutual life insurance company policyholder dividends for the alternative minimum tax book preference

House Offer - 12/16/87 - Senate recedes.

Senate Offer - 12/16/87 - Accept House provision with modification that (1) regulatory authority applies to both stock and mutual companies and (2) dividend disallowance applies only to the extent of the sec. 809 adjustment.

House Response - 12/16/87 - 10:00 PM - AGREED.

4. Treatment of certain insurance syndicates

House Offer - 12/16/87 - House recedes with a modification that requires Treasury (1) to perform a study on the proper Federal income tax treatment of income derived by the insurance syndicates; (2) to report the results of the study before April 1, 1988, to the Senate Committee on Finance and the House Committee on Ways and Means; and (3) to renegotiate the closing agreement before January 1, 1990, to implement the conclusions reached in the study.

Senate Offer - 12/16/87 - Accept House offer.

House Response - 12/16/87 - 10:00 PM - AGREED.

H. Treatment of Net Investment Income of Trade Associations

House Offer - 12/16/87 - Senate recedes.

Senate Offer - 12/16/87 - House recedes.

House Response - 12/16/87 - 10:00 PM - House insists on prior offer.

Conference Agreement

House recedes.

VII. Other Revenue Increase Provisions

D. Tax-Exempt Bonds

1. Purchase of existing output facilities

House Offer - 12/16/87 - Senate recedes with the following modifications:

(1) Two exceptions would be provided to the restrictions contained in the House provision--

(a) acquisition of nongovernmental output property to meet increased capacity demands within an existing geographical service area subject to a 10-year prior service rule.

(b) acquisition of nongovernmental output property to meet increased capacity demands when an existing governmental unit which operates a public utility (subject to a 10-year prior service rule) annexes contiguous territory if--

(i) the geographic service area or service capacity increase by no more than 10 percent;

(ii) the service provided in the annexed territory will be provided directly by the acquiring party to all members of the general public, and

(iii) the governmental unit extends other substantial general governmental services at the same time.

(2) Statutory clarification of the definition of nongovernmental output property, the definition of binding contract, and other technical matters.

Senate Offer - 12/16/87 - Open.

House Response - 12/16/87 - 10:00 PM - House insists on prior offer.

Conference Agreement

Senate accepts House offer with the following clarifications:

(1) Exception for serving existing service area includes acquisitions to meet existing capacity demands as well as projected increased capacity demands;

(2) For 10-year service rule, fact that areas may have been annexed within 10 years by governmental units being served does not disqualify acquisition provided annexations were accompanied by extension of substantial other general government services;

(3) Co-owners of joint action agencies are treated as directly supplying output services;

(4) Purchase of capacity for reasonable projected future growth as well as immediate needs is not precluded under exceptions, provided such acquisitions do not give rise to private use (determined as under present law); and

(5) Street lights are not output property.

2. Indian tribal government bonds

House Offer - 12/16/87 - Senate recedes.

Senate Offer - 12/16/87 - Senate recedes to the House with a modification permitting Indian tribal governments to issue private activity bonds outside of State volume caps for facilities (other than land) for which States and local governments may issue tax-exempt small-issue bonds (but without regard to the special size limits for such bonds) if (1) issuing tribal government owns and operates the facility; (2) the property is located on the issuer's reservation or land comprising Indian country (if such land has been held in trust for the issuing tribe for more than 5 years); and (3) beginning 2 years after issuance an annual employment test is satisfied (i.e., for every $20 of bonds outstanding, at least $1 in FICA wages must be paid to a member of the issuing tribe). Bonds would have to be redeemed to the extent employment test is not satisfied in any year.

House Response - 12/16/87 - 10:00 PM - **AGREED.**

Package 7 -- Miscellaneous Minor Revenue Provisions

I. Individual Tax Provision

A. Income Tax provisions

2. Definition of active participant for IRA deduction

House Offer - 12/16/87 - Senate recedes.

Senate Offer - 12/16/87 - Accept House offer.

House Response - 12/16/87 - 10:00 PM - AGREED.

V. Excise Taxes

1. Highway excise tax exemptions for private buses

House Offer - 12/16/87 - House recedes.

Senate Offer - 12/16/87 - Accept House offer.

House Response - 12/16/87 - 10:00 PM - AGREED.

3. Extension of termination date for coal excise tax rate

House Offer - 12/16/87 - House recedes.

Senate Offer - 12/16/87 - Accept House offer.

House Response - 12/16/87 - 10:00 PM - AGREED.

VII. Other Revenue-Increase Provisions

A. Application of Targeted Jobs Tax Credit

House Offer - 12/16/87 - Senate recedes.

Senate Offer - 12/16/87 - Accept House offer.

House Response - 12/16/87 - 10:00 PM - AGREED.

B. Illegal Federal Irrigation Subsidies

House Offer - 12/16/87 - Senate recedes.

Senate Offer - 12/16/87 - Accept House offer.

House Response - 12/16/87 - 10:00 PM - AGREED.

C. Compliance

1. Escheat of refunds

House Offer - 12/16/87 - Senate recedes.

Senate Offer - 12/16/87 - Accept House offer.

House Response - 12/16/87 - 10:00 PM - AGREED.

2. Sense of Congress for increased IRS funding for taxpayer assistance and enforcement

House Offer - 12/16/87 - Senate recedes.

Senate Offer - 12/16/87 - Accept House offer.

House Response - 12/16/87 - 10:00 PM - AGREED.

Vaccine compensation trust fund

House Offer - 12/16/87 - Senate recedes.

Senate Offer - 12/16/87 - House recedes.

House Response - 12/16/87 - 10:00 PM - House insists on prior offer.

Conference Agreement - Senate recedes.

Other Minor Miscellaneous Items

Lobby provisions

House Offer - 12/16/87 - Senate recedes.

Senate Offer - 12/16/87 - House recedes.

House Response - 12/16/87 - 10:00 PM - Senate recedes, with modifications to (1) clarify the definition of organizations subject to excise taxes for certain political expenditures and (2) clarify that present-law rules on voter registration activities remain unchanged.

Conference Agreement - Senate recedes with modifications.

Long-term bond authority

House Offer - 12/16/87 - House recedes.

Senate Offer - 12/16/87 - Open.

House Response - 12/16/87 - 10:00 PM - House insists on prior offer.

Conference Agreement - House recedes.

Trust Fund restoration

House Offer - 12/16/87 - Senate recedes.

Senate Offer - 12/16/87 - House recedes.

House Response - 12/16/87 - 10:00 PM - House insists on prior offer.

Conference Agreement - Senate recedes with an amendment applying the provision retroactively only. Thus, investment and interest adjustments would be made retroactively with respect to debt ceiling suspension periods reached beginning on July 18, 1987, through the date of enactment, but would not be made with respect to future debt ceiling suspension periods.

Package 8

III. Estimated Tax Provisions

Senate Offer--December 17, 1987

House recedes.

Conference Agreement

Accept Senate offer, modifying the provision so that it results in a revenue increase which is half the amount attributable to the Senate provision.

Debt Collection

Conference Agreement

Six month extension (until July 1, 1988).